

CITY-COUNTY COMMON
County-City Building • 555 S. 10th Street • Lincoln, NE

County Commissioners
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AGENDA
MONDAY, FEBRUARY 6, 2006
COUNTY-CITY BUILDING
555 SOUTH 10TH STREET, ROOM 113
8:30 A.M.

- 1. APPROVAL OF SUPER COMMON MEETING MINUTES OF TUESDAY, NOVEMBER 1, 2005**

- 2. 8:30 A.M. ELECTION OF OFFICERS**

CONFIRMATION OF CITY-COUNTY COMMON MEETING DATES FOR 2006

- 3. PRESENTATIONS**

8:40 A.M. Annual Weed Report and Recommendations - Russell Shultz, Lancaster County Weed Control Authority Superintendent

8:50 A.M. Emergency Medical Services - Joan Anderson, Lancaster County Medical Society Executive Director

9:10 A.M. Update on the “RUTS” Program - Roger Figard, City Engineer; Don Thomas, County Engineer

9:30 A.M. Building Permits for Farmstead Residences - Kerry Eagan, Chief Administrative Officer

**CITY-COUNTY COMMON
FEBRUARY 6, 2006
County-City Building, Room 113**

County Commissioners Present: Bob Workman, Common Vice-Chair; Bernie Heier, Larry Hudkins.
Absent: Deb Schorr and Ray Stevens

City County Members Present: Patte Newman, Common Chair; Jon Camp, Robin Eschliman, Ken Svoboda, Annette McRoy and Dan Marvin. Absent: Jonathan Cook.

Others Present: Mayor Coleen Seng, Steve Henrichsen, Planning Department; Don Thomas, County Engineering; Roger Figard, Public Works; Kerry Eagan and Gwen Thorpe, County Board Office; Trish Owen, Deputy County Clerk, Coby Mach, LIBA and Mary Meyer, County Board/City Council Clerk.

Chair Patte Newman brought the meeting to order. The Minutes of the Common meeting of November 1, 2005 moved for approval by Svoboda and seconded by Hudkins. Approved by unanimous consent of Common members.

Election of Officers

Newman called for nominations for Chair. Svoboda nominated Bob Workman, seconded by McRoy. No other nominations. Approved by unanimous consent of Common members.

Chairman Workman called for nomination for Vice-Chair. McRoy nominated Marvin, seconded by Svoboda. No other nominations. Approved by unanimous consent of Common members.

Chairman Workman announced that Commissioner Deb Schorr, her husband and daughters, were in a serious car accident. Thankfully everyone will be fine. Hopefully they will be back in Lincoln today.

Dates for 2006 Common Meetings

Workman asked for comments on the 2006 Common meeting dates, which are alternating Mondays and Tuesdays. Hudkins thought list was a good starting point with Newman adding it could be changed if necessary. Workman stated as there's no objection we'll stay with the schedule.

Annual Weed Report and Recommendations: Russ Shultz

(Attachment A) Shultz stated even with a dry season the number of infestations, and inspections, increased. Had 372 more violations, a 20% increase, most in weed abatement. Refer to map for gestation areas. Had 5,768 inspections on 2600 sites. On weed abatement had about 4800 inspections on 41 sites with 1835 violations. On noxious weeds had 1,067 inspections of 457 sites with 402 violations. Of concern is the wild Purple Loosestrife. See map for sites listed for removal since 2001. Had excellent responses from people removing Purple Loosestrife from yards but each plant can produce 2,000,000 seeds and do not necessarily re-germinate in yards but are carried by water, ending up in streams. Approximately 45 sites, 17 new. Not large infestations but could create solid stands. Other concerns include Saltcedar and Phragmites. Phragmites showing up on the lower Platte River which could happen to Salt Creek in Lancaster County. Also have Saltcedar in the Saline Wetlands, which the NRD is fighting.

Workman stated Phragmites almost looks like a desirable plant. Shultz answered it has been planted as an ornamental, growing 15 to 20 feet tall with runners, and roots, going out 40 to 50 feet. There is a non-aggressive native variety which is grown and sold in Europe for thrash. But a non-native plant does not bring it's natural enemies or natural habitat.

Heier questioned if we're seeing a trend in Musk Thistle or Leafy Spurge? Shultz answered our population of Musk Thistle is 25 % less then 10 or 15 years ago. No longer have major infestations, but very persistent. Before had 40 to 80 acres of Musk Thistle patches and now the average site is probably one acre. With Leafy Spurge have been spraying for 16 years on County roadsides. Started with probably 75 or 80 acres on the roadsides and now it's down to about 35 acres. People are controlling it but it's almost impossible to eliminate.

Marvin mentioned Rag Weed, which grows between curbs and sidewalks, and visible on arterials. How to encourage people to remove before they become four foot tall? Shultz responded eliminate when they're small and a good weed killer would take care of it. Hudkins added even though Rag Weed is not a primary noxious weed awareness never hurts. Can be controlled with something as simple as Roundup or 24D and certainly the more weed control the better.

Svoboda stated Purple Loosestrife was sold on the retail market in Lincoln before it was recognized as a noxious weed and banned. Is there a national data base to work off of to know if other perennials are being brought into this country and entering the retail, or wholesale market? If so, we could get a handle on it before customers buy and potentially create a problem in the future for the City of Lincoln.

Shultz responded the program, the Federal Noxious Weed List, looks at weeds in other countries. It's a matter of being alert and addressing the ones listed. Some go back a long time, like Purple Loosestrife and Saltcedar, which for a time were being sold as sterile product, but were only self sterile. Also, some Phragmites and Saltcedar were sold on the ornamental market. The North American Weed National Association, created nine years ago, is sponsoring an August statewide meeting in Kearney, where weed invaders located across our State, and in other locations, will be discussed.

Hudkins asked about weed assessments, doing a force cut or an abatement, if it goes into bankruptcy do we collect? Shultz stated eventually when the property is purchased they pay for the assessment to clear the title, but another aspect is we can't do anything until re-notification and then we publish in the paper, with a cost of \$18.00 compared to \$4.00 for a notice. We try to ascertain whether it's in bankruptcy right away. Hudkins added on weed abatement violations apparently only one major contractor had a forced cut this year but sees a listing for the City of Lincoln, which means you have to notify them of violations before they go out and cut?

Shultz said the City of Lincoln had 17 last year, with 23 this year. Usually early in the spring when we see a flush of growth. With the City as soon as they're notified they resolve the problem. But overall had 249 multiple violators, which is 20% of the violations, and 51% of the forced cuttings. Listed are ones having 10 or more violations, with force cuts on 4. Good responses from the larger developers as once we call they respond quite well. Multiple violators really important as they are 46% of all violations.

Workman thanked Shultz and stated he heard he was voted number one on weed abatement in the state, or possibly the world. Shultz said the State has an evaluation which includes a rating on all 93 counties to which Workman reiterated Shultz was number one. Workman then thanked Schultz stating appreciation for a clean looking county.

Emergency Medical Service: Joan Anderson

This will be presented at the March Common meeting.

Update on "RUTS" Program: Roger Figard, Don Thomas

(Attachment B) Thomas stated the RUTS agreement is updated and will be forwarded. Basically is right-of-way and construction standards for the RUTS profile. The agreement keeps the City and County engineers together, describing the relationship and how they work together, particularly for roads which are a part of both. Ultimately the County has final authority, mainly through finance. Now under contract is the design of 98th Street, to the RUTS standard, which will be very beneficial to obtain an idea of costs to build a RUTS road. Figard added Exhibit A speaks to unimproved, or unpaved, county roads that can be, or are suppose to be closed, but we know are going to be annexed in. The philosophy of trying to make urban from the start. Thomas added it's critical to build the pad, more than what kind, or when, paving will be put down. Figard said short of having the agreement signed by the two bodies really isn't any facility to use these standards, so we need to head in that direction. Thomas stated their intention would be to forward the agreement on between the City and County for execution.

Camp asked about no standards in the past which were the same standards. Figard responded there would not be a standard requiring the content of RUTS without the execution of the agreement. Stated they have discussed, but really isn't clear direction outside to apply these standards. There are county road and city standards but for the RUTS standards the agreement needs to be executed to give direction and authority to design to those standards. Camp said from the standpoint that we might perceive pressure does anyone object? Marvin didn't object but asked if 98th Street

is a test case when would we start? Thomas answered potentially in '07, the design is due back in April and so have time between April and July to see what kind of costs involved and where we stand.

Hudkins said he agreed with the right-of-way standards of 120 feet with a 130 foot intersection. With securing this right-of-way can lay down the pad, using the taxpayers dollars wisely. Hudkins complemented Thomas and Figard, and also Carl Frederickson, for their leadership and work. Stated the County Board has committed to finding funding and 98th Street is a good start.

Heier thought perhaps we should review the distance we're going on 98th Street. Thomas replied the design is from Old Cheney to A Street, and the mile from Pine Lake to Old Cheney. The mile is inside the city limits and Figard has discussed with the developer what is to be built there. Heier stated he was curious why we didn't go to O Street, and thought appropriate since there's building plans on the other side of O Street. Thomas replied first we need the right-of-way, and we are discussing, or near the acquisition, along this street, adding there would be nothing wrong with that and it'll take a while to get to A Street.

Workman said there appeared to be no opposition to the document and assumes it will be forwarded to both agendas for consideration, and hopefully approval. Workman then asked if there were comments to be made on the East Beltway, which is really part of our RUTS.

Figard replied there was federal money of \$500,000, in the highway bill, which would come through the Nebraska Department of Roads. Public Works took the initiative to start the paperwork and have put the State on notice that we want to obligate the money. At this time haven't necessarily determined roles and responsibilities of the State, County, and City. The City has taken the initiative to put together a proposal request for preliminary engineering and Corridor Order Protection filing, but not exactly sure when we'll advertise. A preliminary design would indicate where the right-of-way should be on the entire East Beltway, and physically filing the Corridor Order Protection would be the goal.

Figard continued saying Thomas and he have discussed the next step which would be an interlocal agreement between the City and County, not unlike what was done with the South and East Beltway initially. The City, County, and State shared in the local participation, each one-third. Figard stated he and Thomas would prepare an interlocal agreement and bring back to the respective bodies, but need direction and funding. Can select a consultant but still need decisions on local responsibility, cost sharing, and who's accomplishing what. If agreeable will prepare draft of an interlocal, beginning to lay out some responsibilities, and feel the State of Nebraska should be included as a partner in the process.

Figard stated the money, half a million dollars, is spread over the five years of the bill, and we're in the second year. Will probably get 85%, so today would think there's less than \$200,000 available. With a consultant contract will need more money. Figard heard there were rumblings of property owners asking when they're going to be paid and believes the wolf is at the door of the Waverly Interchange. Need direction on how to proceed.

Svoboda asked in the agreement is there a proposed cost per mile, outside of right-of-way acquisition? Costs on construction per mile, on average, for the RUTS program? Thomas replied 98th Street will be helpful in determining costs. Heier stated we discussed the Corridor Order Protection and right-of-way costs for certain right-of-ways. How far out are we going? Figard replied the goal is to have the preliminary engineering lay out the limits of construction so we can know the limits of right-of-way to be acquired at whatever time chosen.

Marvin asked about issues regarding Tractor Supply, the land, and movement. Asked for a City and County perspective on the issue of the intersection, and who has to pay. Figard answered at the time Tractor Supply and the Waverly Development Corp came forward we became aware their development might conflict in an area we felt needed to be part of the East Beltway interchange with I-80. The County, City, State worked quickly, laying out a concept of the interchange. The conclusion was if Waverly and Tractor Supply agreed to stay out of this property triangle we felt the future interchange would fit. The City and County then sent a letter stating the importance of the East Beltway and the need to protect the corridor. Figard stated the discussion of who owes who perhaps rests with this Body. The understanding is the triangle is vacant but Tractor Supply and/or other parties are ready to move ahead with additional work. The owners of the property want to know this Body's intention and if they're going to get reimbursed and if so,

how and when? Do they look at selling the property and developing? If so the footprint for the Interchange gets eliminated.

Marvin asked if they're stating terms of costs? Figard replied no, but have talked about the need for an appraisal. Over time he has heard numbers ranging from one-half million to a million dollars for that triangle of property.

Workman stated Commissioner Schorr and he had a conversation with a State Department of Roads employee last week on this topic. Sounded as if the State would be interested in doing an appraisal on the triangle of property and indicated the triangle would eventually end up being property of the State. Workman felt the State would be receptive to doing an appraisal if encouraged. Also, talked about the \$500,000 which came through the State and felt there was about \$200,000 available immediately if we applied. Felt the funds had no restrictions and could be used for engineering or acquisition.

Hudkins stated appreciation for the report and meeting with the State. For background, the County did put a half a million dollars in this project through Community Development Block Grant monies. Part of the agreement was Tractor Supply would leave this space open. Wondering if some of the triangle will be needed for the widening of I-80. Figard thought the State could widen to 6 lanes in the existing right-of-way. Will need to come closer to the existing interchange and will be setting up for a future East Beltway, but doesn't believe they need to get into the triangle now. Figard also stated the Federal government is concerned about process. Need to have an agreement in place on who's doing what, need the project program and need to follow all Federal processes on appraisals and engineering, and need this done before we start. Even if the State is willing to consider an appraisal we need to have an interlocal agreement between the City, State and County, outlining the responsibilities. Any effort made prior to these agreements being in place results in the Federal money not being available for expenditure or reimbursement.

Thomas added the interest in having the State as part of the agreement is although they aren't in financially now believes in the future they will assume responsibility for the East Beltway. Would be in a few years but they would have had a part in the process from day one. Also they've said they have the authority to do Corridor Order Protection for Highway 2, O Street, Highway 6 and the Interstate, but have said they would file the protection but the County and City would have to declare the right-of-way.

Figard added last week there was further email saying would have the right to file Corridor Order Protection at I-80 at Highway 34 and Highway 2, but because the State passed legislation last summer to file Corridor Order Protection determined they would not file Corridor Order Protection on our behalf at I-80 and Highway 34. They did file Corridor Order Protection at Highway 2 but only for that necessary to connect the South Beltway to the Highway. They did not file for the rest of the property necessary on the north side of Highway 2, where the East Beltway interchange would connect. They left it to the local authorities and the legislation that has been given to them.

Workman asked if it included the Waverly Interchange? They would not file Corridor Order Protection there? Figard replied that was his understanding. Thomas thought they were saying there isn't a need now and the locals, by this legislation, have Corridor Protection already. The area is approximately 15 to 17 acres.

Workman stated the County Board should have the triangle at the Waverly Interchange as an item at a staff meeting. Believes the need to talk to the State more. Realizes the County Board members have individually been approaching this item, but definitely feels this should be approached as we're talking about the East Beltway coming to fruition. Mayor Seng complemented Figard and Thomas for their work on the RUTS program, and on working together. To show support do we need motion to take back to the individual units? Would make the motion, Hudkins seconded.

Motion: To bring the RUTS Agreement back to both bodies (City and County) as an action item on their agendas. Seconded by Hudkins. Workman asked for any discussion.

Heier stated regarding reference to RUTS, and the financing, doesn't want the City Council to have the wrong idea regarding the the three County Board members present representing Commissioners Schorr and Stevens. The two

absent Commissioners (Schorr and Stevens) may have different views than voiced.

Roll taken:

Yes: Workman; Heier; Hudkins; Newman; Svoboda; McRoy; Eschliman; Camp; Marvin; and Mayor Seng.

Absent: Schorr; Stevens; and Cook .

Motion passed: Yes - 10, Absent - 3.

Mayor Seng said on the East Beltway she encourages everyone to continue working together and also to support Figard and Thomas in their roles. Hudkins echoed the Mayor's comments, adding after visiting earlier with her thought he would make the motion to enter into negotiations to try to develop an interlocal agreement with the State, City, and County for purposes of securing the East Beltway. Seng seconded. Workman asked for any discussion.

Marvin asked if the City of Waverly benefitted from the interchange and if they should be included in the discussion? Thomas replied he's not sure on Waverly's position as they've talked both ways. Figard said he received an email from Doug Rix, asking numerous questions. Did answer with copy to Thomas and the Mayor. Figard stated perhaps to investigate further on Waverly's interest and whether they would have a role, but his urgency would be the City, County and State moving fairly quickly. Thomas added if they chose not to participate we'll move ahead as the City and County and provide our leadership on the East Beltway and get the study done and approved.

Newman brought up Waverly's concerns about the first change many years ago when the East Beltway was placed, and if it was a compromise at that time? Svoboda added they do have representation on this Board, and have at least one district representative from the County Board, plus the other County Board members. He stated his agreement with Marvin that they are a stakeholder in this interchange. Workman then reiterated the motion.

Motion: To assume and investigate an interlocal agreement between the State of Nebraska, the City of Lincoln, and Lancaster County in regard to acquisition of the East Beltway and Corridor Order Protection.

Roll:

Yes: Workman; Hudkins; Mayor Seng; McRoy; Eschliman; Camp; Marvin; Newman; Svoboda.

Abstaining: Heier

Absent: Schorr; Stevens; Cook

Motion Passed: Yes - 9, Absent - 3, Abstaining - 1

Building Permits for Farmstead Residences: Kerry Eagan

(Attachment C) Eagan distributed LB 1054 and LB 1106, bills addressing the issue of requiring building permits for farmstead residences. This issue has been ongoing, trying to get the Legislature to give authority to Lancaster County to require a building permit on a farmstead involving construction of a residence. For years, State Law has said cities or counties have no authorities to regulate construction on buildings, on farmsteads, which is defined as 20 acres or more. The Statute for the City, 15-905, which LB 1054 addresses, totally excludes the City from any authority to regulate construction on a farmstead. If we want to require a residence, where people will be living, to be built to code we need this amendment. The County's bill statutory section is 23-1114.03, with the language a little more confusing and have tried to get the Legislature to clarify that the definition of a farmstead building does not include a residence.

Eagan continued saying it might have been corrected in 2001 but a Senator interjected a change which changed the entire meaning on the Statute, changing farm building to non farm building. We have the authority to regulate non farm buildings. The last time we approached this the City Attorney decided the City should join in and therefore there is a community of interest with the City and County to have this legislation passed. Is a pretty straight forward matter of trying to get authority to regulate residences, requiring building permits. Believes the City practice now is no building permits, whatsoever, on a farmstead located within the three mile. There are approximately 500 such parcels. As the three mile expands we're going to expand out to include more 20 acre parcels.

Newman asked what happens if the City annexes a farmstead property not up to code? Eagan answered under present law they would not have to bring it up to code. The City has no authority to regulate construction on a farmstead,

whether it's within the three mile or the city limits. Generally not going to get too many 20 acre parcels within the City limits as sub-divisions break them down below 20 acres. There is probably an exception, but would be hard to imagine.

Marvin asked with LB 1054 does the City have permits to regulate within the 3 mile limit? Eagan responded the City has authority to have zoning regulations within the 3 mile, but specifically excludes any construction on a farmstead. A farmstead is defined as a parcel greater than 20 acres producing \$1,000 worth of income. The City and County attorneys have been uniform in their interpretations that we need the legislation. There's a low standard to be a farmstead and this bill would exclude a farm building used as a residential building or dwelling. Still wouldn't have authority to regulate farm buildings used in a farming operation, but could require a building permit on a building used as a residence.

Marvin raised the question of code when adding on or doing major remodeling. Eagan replied without a little legal research wouldn't be able to answer with specificity.

Eschliman asked about common facts in Omaha or in primary cities in Iowa? Eagan responded he didn't know without doing research, all enabling statutes are different. Omaha is essentially urbanized. Different interpretations across the State. Know some smaller counties have decided they can require building permits if they want. The County and City attorneys differ with that opinion but have been consistent that we need the legislation in order to have authority to require building permits for residences.

Camp added with the fire and medical protection which goes into the County, and outlying areas, it becomes even more important to have uniform standards. Workman stated we're trying to correct this problem by requiring a building permit for all homes in Lancaster County and the City of Lincoln.

Workman asked for other business before this group? No comments and Heier made a motion to adjourn, seconded by Newman.

Meeting adjourned. Next meeting on Tuesday, March 7, 2006 at 9:30 am in Room 113 of the County-City Building.

Submitted,

Mary Meyer
Clerk